

No. 12,772

COMPLAINT

Filed June 27, 1955

The plaintiff, by his attorney, respectfully alleges:

1. That this is an action for a declaratory judgment under the Declaratory Judgment Act (28 U.S.C. 2201) and for review under the Administrative Procedure Act (5 U.S.C. 1001 et seq.).

2. That the plaintiff is a citizen of China.

3. That the defendant is the Attorney General of the United States and is charged with the statutory duty to determine after appropriate hearings whether aliens are to be excluded and deported from the United States and supervises the administration of the Immigration and Naturalization Service.

4. That the plaintiff is not a permanent resident of the United States.

5. That the plaintiff last arrived in the United States on or about July 13, 1949, and sought admission to the United States, claiming American citizenship.

6. That thereafter plaintiff was paroled into the United States and has remained at large ever since.

7. That a final order was entered against the plaintiff on December 3, 1954, excluding him from the United States.

8. That the plaintiff filed an application under section 243(h) of the Immigration and Nationality Act of 1952, requesting that he not be deported to Communist China upon the ground that if he is sent there he will be subject to physical persecution. The plaintiff has also requested that his parole be continued under Section 212(d)(5) of the Immigration and Nationality Act, and both of the plaintiff's applications have been denied.

9. That the defendant has designated Communist China as the place to which the plaintiff shall be deported and is threatening to send the plaintiff to Communist China through Hong Kong.

10. That the plaintiff is opposed to Communism and the plaintiff is anti-communist.

11. That if deported to Communist China, the plaintiff will suffer physical persecution.

12. That the defendant has advised the plaintiff that his application claiming physical persecution will not be considered upon the ground that a claim of physical persecution may not be asserted in exclusion cases.

13. That the defendant, acting through his agents, has arbitrarily and contrary to law determined not to honor any claims of persecution made by Chinese aliens in exclusion cases and has arbitrarily and contrary to law refused to exercise discretion to permit the plaintiff to remain in the United States.

14. That the plaintiff is not subject to deportation to Communist China, but on the contrary is deportable only to Hong Kong which is the country from whence he came.

15. That the order directing the deportation of plaintiff to Communist China, through Hong Kong, is arbitrary, contrary to law, a gross abuse of discretion, and null and void.

16. That the deportation of the plaintiff to Communist China is a violation of the provisions of the Immigration and Nationality Act, and the regulations of the Immigration Service; and deprives the plaintiff of due process of law.

17. That the defendant has advised the plaintiff to be ready for deportation to Communist China on July 8, 1955, and unless restrained will deport the plaintiff to Communist China causing him irreparable injury.

WHEREFORE, plaintiff prays for a judgment:

(a) Declaring that he is not deportable to Communist China;

(b) Directing the defendant to consider his claim of physical persecution;

(c) Restraining the defendant from deporting plaintiff to Communist China;

(d) For such other and farther relief as may be appropriate.

JACK WASSERMAN,
Attorney for Plaintiff,

*Warner Building,
Washington 4, D. C.*

FALLON & HARGREAVES,
Of Counsel.

MOTION FOR PRELIMINARY INJUNCTION

Filed June 28, 1955

The plaintiff, Jimmie Quan, by his attorneys moves the Court for an order granting a preliminary injunction against the defendant, restraining defendant from apprehending and deporting the plaintiff pending determination of this suit and until further order of the Court, upon the grounds and in accordance with the prayers set forth in the complaint and other papers filed herein.

JACK WASSERMAN,
Attorney for Plaintiff.

(Attached affidavit omitted in printing)

MOTION TO DISMISS

Filed July 1, 1955

Comes now the defendant and by his attorney, the United States Attorney, moves this honorable Court to dismiss the complaint filed herein on the grounds that the Court lacks jurisdiction over the subject matter, the complaint fails to state a claim upon which relief may be granted, and fails to comply with the provisions of Rule 8(a), Federal Rules of Civil Procedure in that it does not contain a short and plain statement of the claim showing that the pleader is entitled to relief.

LEO A. ROVER,
United States Attorney.

ORDER

Filed July 1, 1955

This cause having come on for hearing on plaintiff's motion for a preliminary injunction and the defendant having filed a motion to dismiss the complaint herein, the same having been filed with the consent of attorney for the plaintiffs and on order of the Court, and both motions having been argued and the Court having found that it is without jurisdiction of the subject matter and that the complaint

fails to state a claim upon which relief may be granted, it is this 1st day of July, 1955;

ORDERED that the complaint herein be and the same is hereby dismissed and the motion for preliminary injunction be and the same is hereby denied, and it is

FURTHER ORDERED that plaintiff's oral application for a stay pending appeal be and is hereby denied.

RICHMOND B. KEECH,

Judge.

No. 12,773

COMPLAINT

Filed June 28, 1955

The plaintiffs, by their attorneys, respectfully allege:

1. That this is an action for a declaratory judgment under the Declaratory Judgment Act (28 U. S. C. 2201) and for review under the Administrative Procedure Act (5 U. S. C. 1001 et seq).

2. That the plaintiffs are natives and citizens of China.

3. That the defendant is the Attorney General of the United States and is charged with the statutory duty to determine, after appropriate hearings, whether aliens are to be excluded or deported from the United States and supervises the administration of the Immigration and Naturalization Service.

4. That the plaintiffs are not permanent residents of the United States.

5. That the plaintiffs arrived in the United States on or about October 21, 1951, and sought admission to the United States claiming American citizenship.

6. That on July 22, 1952, the plaintiffs were paroled into the United States pending final determination of their claims to American citizenship.

7. That on August 14, 1953, final orders were entered in the plaintiffs' case excluding them from the United States.

8. That from July 22, 1952, until the present date, the plaintiffs have been at large on parole.

9. That the plaintiffs filed applications under Section 243(h) of the Immigration and Nationality Act of 1952.

requesting that they be not deported to Communist China upon the ground that if they are sent there they will be subject to physical persecution.

10. That the defendant has designed Communist China as the place to which the plaintiffs shall be deported and is threatening to send the plaintiffs to Communist China through Hong Kong.

11. That the plaintiffs are opposed to Communism and the plaintiffs are anti-communist.

12. That if deported to Communist China, the plaintiffs will suffer physical persecution.

13. That the defendant has advised the plaintiffs that their applications claiming physical persecution will not be considered upon the ground that claims of physical persecution may not be asserted in exclusion cases.

14. That the defendant, acting through his agents, has arbitrarily and contrary to law determined not to honor any claims of persecution made by Chinese aliens in exclusion cases and has arbitrarily and contrary to law refused to exercise discretion to permit the plaintiffs to remain in the United States.

15. That the plaintiffs are not subject to deportation to Communist China.

16. That the order directing the deportation of plaintiffs to Communist China, through Hong Kong is arbitrary, contrary to law, a gross abuse of discretion, and null and void.

17. That the deportation of the plaintiffs to Communist China is a violation of the provisions of the Immigration and Nationality Act, and the regulations of the Immigration Service, and deprives the plaintiffs of due process of law.

18. That the defendant has advised the plaintiffs to be ready for deportation to Communist China on July 8, 1955, and unless restrained will deport the plaintiffs to Communist China causing them irreparable injury.

WHEREFORE, plaintiffs pray for a judgment:

(a) Declaring that they are not deportable to Communist China;

(b) Directing the defendant to consider their claims of physical persecution;

(c) Restraining the defendant from deporting plaintiffs to Communist China;

(d) For such other and further relief as may be appropriate.

JACK WASSERMAN,
Attorney for Plaintiff,
Warner Bldg.,
Washington 4, D. C.

GARCIA & WONG
Of Counsel.

MOTION FOR PRELIMINARY INJUNCTION

Filed June 28, 1955

The plaintiffs, Jow Mun Yow and Jow Kwong Yeong, by their attorneys move the Court for an order granting a preliminary injunction against the defendant, restraining defendant from apprehending and deporting plaintiffs pending determination of this suit and until further order of the Court, upon the grounds and in accordance with the prayers set forth in the complaint and other papers filed herein:

JACK WASSERMAN,
Attorney for Plaintiff.

(Attached Affidavit omitted in printing)

MOTION TO DISMISS

Filed July 1, 1955

Comes now the defendant and by his attorney, the United States Attorney, moves this honorable Court to dismiss the complaint filed herein on the grounds that the Court lacks jurisdiction over the subject matter, the complaint fails to state a claim upon which relief may be granted, and fails to comply with the provisions of Rule 8(a), Fed-

eral Rules of Civil Procedure in that it does not contain a short and plain statement of the claim showing that the pleader is entitled to relief.

LEO A. ROVER,
United States Attorney.

ORDER

Filed July 1, 1955

This cause having come on for hearing on plaintiffs' motion for a preliminary injunction and the defendant having filed a motion to dismiss the complaint herein, together with a memorandum of points and authorities in support thereof, the same having been filed with the consent of attorney for the plaintiffs and on order of the Court, and both motions having been argued and the Court having found that it is without jurisdiction of the subject matter and that the complaint fails to state a claim upon which relief may be granted, it is this 1st day of July, 1955.

ORDERED that the complaint herein be and the same is hereby dismissed and the motion for preliminary injunction be and the same is hereby denied, and it is

FURTHER ORDERED that plaintiffs' oral application for a stay pending appeal be and is hereby denied.

RICHMOND B. KEECH,

Judge.

No. 12,774

COMPLAINT

Filed July 1, 1955

The plaintiff, by his attorneys, respectfully alleges:

1. That this is an action for a declaratory judgment under the Declaratory Judgment Act (28 U.S.C. 2201) and for review under the Administrative Procedure Act (5 U.S.C. 1001 et seq.).

2. That the plaintiff is a native and citizen of China.

3. That the defendant is the Attorney General of the United States and is charged with the statutory duty to determine, after appropriate hearings, whether aliens are

to be excluded or deported from the United States and supervises the administration of the Immigration and Naturalization Service.

4. That the plaintiff is not a permanent resident of the United States.

5. That the plaintiff arrived in the United States in December of 1954, and thereafter was paroled into the United States.

6. That on May 23, 1955, a final order was entered in the plaintiff's case excluding him from the United States.

7. That the plaintiff filed an application under Section 243(h) of the Immigration and Nationality Act of 1952, requesting that he not be deported to Communist China upon the ground that if he is sent there, he will be subject to physical persecution.

8. That the defendant has designated Communist China as the place to which the plaintiff shall be deported and is threatening to send the plaintiff to Communist China through Hong Kong.

9. That the plaintiff is opposed to Communism and the plaintiff is an anti-communist.

10. That if deported to Communist China, the plaintiff will suffer physical persecution.

11. That the defendant has advised the plaintiff that his application claiming physical persecution will not be considered upon the ground that claims of physical persecution may not be asserted in exclusion cases.

12. That the defendant, acting through his agents, has arbitrarily and contrary to law determined not to honor any claims of persecution made by Chinese aliens in exclusion cases and has arbitrarily and contrary to law refused to exercise discretion to permit the plaintiff to remain in the United States.

13. That the plaintiff is not subject to deportation to Communist China.

14. That the order directing the deportation of the plaintiff to Communist China, through Hong Kong, is arbitrary, contrary to law, a gross abuse of discretion, and null and void.

15. That the deportation of the plaintiff to Communist

China is a violation of the provisions of the Immigration and Nationality Act, and the regulations of the Immigration Service, and deprives the plaintiff of due process of law.

16. That the defendant has advised the plaintiff to be ready for deportation to Communist China on July 6, 1955, and unless restrained will deport the plaintiff to Communist China causing him irreparable injury.

WHEREFORE, plaintiff prays for a judgment:

(a) Declaring that he is not deportable to Communist China;

(b) Directing the defendant to consider his claim of physical persecution;

(c) Restraining the defendant from deporting the plaintiff to Communist China;

(d) For such other and further relief as may be appropriate.

JACK WASSERMAN,
Attorney for Plaintiff,
902 Warner Building,
Washington 4, D. C.

ANDREW REINER,
Of Counsel.

MOTION FOR PRELIMINARY INJUNCTION

• Filed July 1, 1955

The plaintiff, Yen Mok, by his attorneys, moves the Court for an order granting a preliminary injunction against the defendant, restraining defendant from apprehending and deporting plaintiff pending determination of this suit and until further order of the Court, upon the grounds and in accordance with the prayers set forth in the complaint and other papers filed herein.

JACK WASSERMAN,
Attorney for Plaintiff.

(Attached affidavit omitted in printing).

MOTION TO DISMISS

Filed July 1, 1955

Comes now the defendant and by his attorney, the United States Attorney, moves this honorable Court to dismiss the complaint filed herein on the grounds that the Court lacks jurisdiction over the subject matter; the complaint fails to state a claim upon which relief may be granted, and fails to comply with the provisions of Rule 8(a), Federal Rules of Civil Procedure in that it does not contain a short and plain statement of the claim showing that the pleader is entitled to relief.

LEO A. ROVER,
United States Attorney.

ORDER

Filed July 1, 1955

This cause having come on for hearing on plaintiff's motion for a preliminary injunction and the defendant having filed a motion to dismiss the complaint herein, the same having been filed with the consent of attorney for the plaintiff and on order of the Court, and both motions having been argued and the Court having found that it is without jurisdiction of the subject matter and that the complaint fails to state a claim upon which relief may be granted, it is this 1st day of July, 1955,

ORDERED that the complaint herein be and the same is hereby dismissed and the motion for preliminary injunction be and the same is hereby denied, and it is

FURTHER ORDERED that plaintiff's oral application for a stay pending appeal be and is hereby denied.

RICHMOND B. KEECH,
Judge.

No. 12,800

COMPLAINT

Filed July 6, 1955

The plaintiff by his attorneys, respectfully alleges:

1. That this is an action for a declaratory judgment under

the Declaratory Judgment Act (28 U. S. C. 2201) and for review under the Administrative Procedure Act (5 U.S.C. 1001 et seq).

2. That the plaintiff is a native and citizen of China.

3. That the defendant is the Attorney General of the United States and is charged with the statutory duty to determine, after appropriate hearings, whether aliens are to be excluded or deported from the United States and supervises the administration of the Immigration and Naturalization Service.

4. That the plaintiff is not a permanent resident of the United States.

5. That the plaintiff arrived in the United States originally in 1943 as a seaman. He thereafter followed his calling as a seaman from 1943 to 1945 on American vessels and received a presidential citation during World War II.

6. Plaintiff last arrived in the United States on *April 17, 1952*, and was ordered excluded and thereafter paroled into the United States.

7. Plaintiff filed an application under Section 243(h) of the Immigration and Nationality Act of 1952, requesting that he not be deported to Communist China upon the ground that if he is sent there he will be subject to physical persecution.

8. That the defendant has designated Communist China as the place to which the plaintiff shall be deported and is threatening to send the plaintiff to Communist China through Hong Kong.

9. That the plaintiff is opposed to Communism and the plaintiff is anti-communist.

10. That if deported to Communist China, the plaintiff will suffer physical persecution.

11. That the defendant has advised the plaintiff that his application claiming physical persecution will not be considered upon the ground that claims of physical persecution may not be asserted in exclusion cases.

12. That the defendant, acting through his agents, has arbitrarily and contrary to law determined not to honor any claims of persecution made by Chinese aliens in exclusion cases and has arbitrarily and contrary to law refused

to exercise discretion to permit the plaintiff to remain in the United States.

13. That the plaintiff is not subject to deportation to Communist China.

14. That the order directing the deportation of the plaintiff to Communist China, through Hong Kong, is arbitrary, contrary to law, a gross abuse of discretion, and null and void.

15. That the deportation of the plaintiff to Communist China is a violation of the provisions of the Immigration and Nationality Act, and the regulations of the Immigration Service, and deprives the plaintiff of due process of law.

16. That the defendant has advised the plaintiff to be ready for deportation to Communist China on July 6, 1955, and unless restrained will deport the plaintiff to Communist China causing him irreparable injury.

WHEREFORE, plaintiff prays for a judgment:

(a) Declaring that he is not deportable to Communist China;

(b) Directing the defendant to consider his claim of physical persecution;

(c) Restraining the defendant from deporting the plaintiff to Communist China;

(d) For such other and further relief as may be appropriate.

JACK WASSERMAN,
Attorney for Plaintiff,
Warner Building,
Washington 4, D. C.

DAVID CARLINER,
Attorney for Plaintiff,
Warner Building,
Washington 4, D. C.

ABRAHAM LEBENKOFF,
Of Counsel.

MOTION FOR PRELIMINARY INJUNCTION

Filed July 6, 1955

The plaintiff, Lam Wing, by his attorneys moves the Court for an order granting a preliminary injunction against the defendant, restraining defendant from apprehending and deporting the plaintiff pending determination of this suit and until further order of the Court, upon the grounds and in accordance with the prayers set forth in the complaint and other papers filed herein.

JACK WASSERMAN,

Attorney for Plaintiff.

(Attached affidavit omitted in printing).

MOTION TO DISMISS

Filed July 6, 1955

Comes now the defendant and, by his attorney, the United States Attorney, moves this honorable Court to dismiss the complaint filed herein on the grounds that the Court lacks jurisdiction over the subject matter, the complaint fails to state a claim upon which relief may be granted, and fails to comply with the provisions of Rule 8(a), Federal Rules of Civil Procedure, in that it does not contain a short and plain statement of the claim showing that the pleader is entitled to relief:

LEO A. ROVER,

United States Attorney.

STIPULATION OF FACTS

Filed July 6, 1955

It is hereby stipulated by and between the attorneys for the parties hereto that the plaintiff is an alien, a native and citizen of China, who last entered the United States at Baltimore, Maryland on April 17, 1952. On that date he was ordered detained on board as a "male fide" seaman by the immigration authorities, and thus ordered excluded from the United States. He was subsequently paroled into the

United States under bond, and his case re-examined at New York on May 23, 1952, at which time it was concluded that the evidence sustained the exclusion order of April 17, 1952 and that order remained in effect.

On June 20, 1955 plaintiff submitted an application pursuant to Section 243(h) of the Immigration and Nationality Act of 1952, 8 U.S.C. 1253 (h), to have his deportation withheld on the ground that he would be subject to physical persecution if returned to China. The immigration authorities, to which the application was submitted, advised the plaintiff that they would not consider the application on the ground that as a matter of law such relief was not available to an alien ordered excluded from the United States.

(S.) DAVID CARLINER,

Attorney for Plaintiff.

(S.) WILLIAM F. BECKER,

Assistant United States Attorney.

(S.) WILLIAM B. TAFFET,

Special Assistant to the United States Attorney.

ORDER

Filed July 6, 1955

This cause having come on for hearing on plaintiff's motion for a preliminary injunction and the defendant having filed a motion to dismiss the complaint herein, the same having been filed with the consent of attorney for the plaintiff and on order of the Court, and both motions having been argued and the Court having found that it is without jurisdiction of the subject matter and that the complaint fails to state a claim upon which relief may be granted, it is this 6th day of July, 1955,

ORDERED that the complaint herein be and the same is hereby dismissed and the motion for preliminary injunction be and the same is hereby denied, and it is

FURTHER ORDERED that plaintiff's oral application for a stay pending appeal be and is hereby denied.

RICHMOND B. KEECH,

Judge.